DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS: 01-0080
INDIANA INDIVIDUAL INCOME TAX
For the 1999 Tax Year

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Definition of "Income" as Applied to Individual Indiana Residents for the Purpose of Imposing the State's Individual Income Tax.

Authority. Ind. Const. art. X, § 8; IC 6-3-1-3.5 et seq.; New York v. Graves, 300 U.S. 308 (1937); Doyle v. Mitchell, 247 U.S. 179 (1918); Southern Pacific Co. v. Lowe, 247 U.S. 330 (1918); Stratton's Independence v. Hobert, 231 U.S. 399 (1913); United States v. Connor, 898 F2d 942 (3rd Cir. 1990); Wilcox v. Commissioner of Internal Revenue, 848 F2d 1007 (9th Cir. 1988); Coleman v. Commissioner of Internal Revenue, 791 F2d 68 (7th Cir. 1986); United States v. Koliboski, 732 F2d 1328 (7th Cir. 1984); United States v. Romero, 640 F2d 1014 (9th Cir. 1981); Snyder v. Indiana Dept. of State Revenue, 723 N.E.2d 487 (Ind. Tax Ct. 2000); Thomas v. Indiana Dept. of State Revenue, 675 N.E.2d 362 (Ind. Tax. Ct. 1997); Richey v. Indiana Dept. of State Revenue, 634 N.E.2d 1375 (Ind. Tax Ct. 1994).

Taxpayers are of the opinion that the private "monetary gain" experienced by an individual Indiana resident does not constitute "income" for purposes of the state's individual income tax.

II. Defintion of "Taxpayer" for the Purpose of Assessing the State's Individual Income Tax.

Authority. IC 6-2.1-1-16; IC 6-3-1 et seq.; IC 6-3-1-3.5(a); IC 6-3-1-9; IC 6-3.1-1-12.

Taxpayers argue that, for purposes of assessing the state's individual income tax, they are not statutorily defined "taxpayers" subject to imposition of the tax.

STATEMENT OF FACTS

Taxpayers filed an individual income tax return for 1999. On that return, taxpayers reported a federal adjusted gross income of "O." Attached to the return was a statement indicating that the return was not filed or signed voluntarily but out of a concern that by failing to file the return, taxpayers would subject themselves to illegal prosecution. Attached elsewhere to the 1999 return was a statement outlining the substance of taxpayers' protest. Essentially, taxpayers disagreed with the necessity of filing the return stating that a return containing "zeros" was sufficient to comply with the requirements for filing an income tax return. Elsewhere in taxpayers' statement, taxpayers argued that only corporate gain was subject to imposition of federal and state income taxes. For the taxing authorities to determine otherwise, according to taxpayers, would be to ignore the court references, statutes, and regulations cited by the taxpayers. Subsequently, the Department issued a notice of "proposed assessment." Taxpayers averred, repeating the essence of their earlier arguments. Taxpayers requested and were granted the opportunity to present their arguments at an administrative hearing. This Letter of Findings follows as a consequence of that hearing.

DISCUSSION

I. Definition of "Income" as Applied to Individual Indiana Residents for the Purpose of Imposing the State's Individual Income Tax.

Taxpayers maintain that for the purpose of determining income tax liability, "income" can only be a derivative of corporate activity. Accordingly, individual Indiana residents – who by definition do not receive "corporate" income – are not subject to income tax liability.

Taxpayers rely upon various court cases to support this assertion. Among those cases is Doyle v. Mitchell, 247 U.S. 179 (1918) in which the Court stated that, "Whatever difficulty there may be about a precise and scientific definition of 'income,' it imports . . . the idea of gain or increase arising from corporate activities." Id at 185. Taxpayers read this and its companion cases for the generalized proposition that income tax can only be levied against corporate gain. *See also* Stratton's Independence v. Hobert, 231 U.S. 399 (1913); Southern Pacific Co. v Lowe, 247 U.S. 330 (1918). According to taxpayers, the cited cases lead to the conclusion that the "income" – as commonly referred to within the state and federal tax statutes – is exclusively limited to that definition established under the Civil War Income Tax Act of 1867; the Corporation Excise Act of 1909; and the Income Tax Acts of 1913, 1916, and 1917.

Leaving aside questions concerning the accuracy of taxpayers' legal analysis, the conclusions fairly attributable to the cited cases simply do not get taxpayers where they want to go. Taxpayers have cited cases in which the federal courts were asked to decide what constituted corporate income under the various corporate income and excise taxes in effect at the time the courts reached their decisions. If one chooses those cases in which

questions of corporate income are placed before the courts, one will get answers related to corporate income tax and not – despite taxpayers' circular reasoning – related to the questions concerning the applicability and legitimacy of the state's individual income tax.

The question of what constitutes individual taxable "income" has been answered by the courts. Although not binding upon the state's decision to tax the wages of its own citizens, the United States Supreme Court has definitively ruled on the question of whether a citizen's individual income may be subjected to an adjusted gross income tax. In New York v. Graves, 300 U.S. 308, 312-13 (1937), Justice Stone stated as follows:

> That the receipt of income by a resident of the territory of a taxing sovereignty is a taxable event is universally recognized. Domicil itself affords a basis for such taxation. Enjoyment of the privileges of residence in the state and the attendant right to invoke the protect of its laws are inseparable from the responsibility for sharing the costs of government . . . . A tax measured by the net income of residents is an equitable method of distributing the burdens of government among those who are privileged to enjoy its benefits. The tax, which is apportioned to the ability of the taxpayer to pay it, is founded upon the protection afforded by the state to the recipient of the income in his person, in his right to receive the income and in his enjoyment of it when received. These are rights and privileges which attach to domicil within the state. To them and to the equitable distribution of the tax burden, the economic advantage realized by the receipt of income and represented by the power to control it, bears a direct relationship. Neither the privilege nor the burden is affected by the character of the source from which the income is derived.

Since that 1937 decision, the federal courts have consistently, repeatedly, and without exception determined that individual wages – no matter in what form the taxpayers have attempted to characterize, define, or label those wages – are income subject to taxation. United States v. Connor, 898 F2d 942. 943 (3rd Cir. 1990) ("Every court which has ever considered the issue has unequivocally rejected the argument that wages are not income"); Wilcox v. Commissioner of Internal Revenue, 848 F2d 1007, 1008 (9th Cir. 1988) ("First, wages are income."); Coleman v. Commissioner of Internal Revenue, 791 F2d 68, 70 (7th Cir. 1986) ("Wages are income, and the tax on wages is constitutional."); United States v. Koliboski, 732 F2d 1328, 1329 n. 1 (7th Cir. 1984) ("Let us now put [the question] to rest: WAGES ARE INCOME. Any reading of tax cases by would-be tax protesters now should preclude a claim of good-faith belief that wages – or salaries – are not taxable") (Emphasis in original); United States v. Romero, 640 F2d 1014, 1016 (9th Cir. 1981) ("Compensation for labor or services, paid in the form of wages or salary, has been universally held by the courts of this republic to be income, subject to the income tax laws currently applicable. . . . [Taxpayers] seems to have been inspired by various tax protesting groups across the land who postulate weird and illogical theories of tax avoidance all to the detriment of the common weal [sic] and of themselves.").

In addressing the identical question, the Indiana Tax Court has held that, "Common definition, an overwhelming body of case law by the United Sates Supreme Court and

federal circuit courts, and this Court's opinion . . . all support the conclusion that wages are income for purposes of Indiana's adjusted gross income tax." Snyder v. Indiana Dept. of State Revenue, 723 N.E.2d 487, 491 (Ind. Tax Ct. 2000). *See also* Thomas v. Indiana Dept. of State Revenue, 675 N.E.2d 362 (Ind. Tax Ct. 1997); Richey v. Indiana Dept. of State Revenue, 634 N.E.2d 1375 (Ind. Tax Ct. 1994).

Taxpayers' hypertechnical linguistic distinctions aside, taxpayers' "monetary gain" is subject to Indiana's adjusted gross income tax as defined by the General Assembly under IC 6-3-1-3.5 et seq. and as authorized by the Indiana Constitution. Ind. Const. art X, § 8.

FINDING

Taxpayers' protest is respectfully denied.

II. Defintion of "Taxpayer" for the Purpose of Assessing the State's Individual Income Tax.

Taxpayers do not believe that, for purposes of the state's individual income tax, they fall within the statutory definition of "taxpayer." Taxpayers cite to IC 6-2.1-1-16 in support of this proposition. IC 6-2.1-1-16 defines "taxpayers" as, inter alia, various business and commercial organizations such as partnerships, banks, clubs, institutions, and municipalities. Taxpayers are correct in their basic assertion that they do not come within the definition of "taxpayer" as set out in IC 6-2.1-1-16. However, that distinction is ultimately irrelevant to taxpayers' argument because IC 6-2.1-1-16 is a provision of the state's gross income tax, IC 6-2.1 et seq., and because taxpayers can be reasonably assured that they will not be subjected to that particular tax.

Taxpayers' are more properly concerned with the applicability of the state's individual *adjusted* gross income tax found at IC 6-3-1 et seq. IC 6-3-1-3.5(a) imposes the state's adjusted gross income tax on "individuals." IC 6-3-1-9 defines the term stating that "[t]he term 'individual' means a natural person, whether married or unmarried, adult or minor."

Given that taxpayers are undoubtedly "natural person[s]" receiving taxable income, and were residents of Indiana for the year at issue (IC 6-3-1-12), it can be safely concluded that taxpayers fall squarely under the authority of the state's individual income tax provisions.

FINDING

Taxpayers' protest is respectfully denied.